1			
1	BILL LOCKYER, Attorney General		
2	of the State of California SUSAN MELTON WILSON, State Bar No. 106092		
3	Deputy Attorney General California Department of Justice		
4	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
5	Telephone: (213) 897-4942 Facsimile: (213) 897-2804		
6	Attorneys for Complainant		
7	BEFORE THE		
8	BOARD OF PHARMACY STATE OF CALIFORNIA		
9	The second of the Assistance	Case No. 2570	
10	In the Matter of the Accusation Against:	OAH No.	
11	TOTAL REMEDY AND PRESCRIPTION CENTER	L-2002080834, L-2002080835	
12	a.k.a GOOD SAMARITAN MEDICAL PHARMACY		
13	Original Pharmacy Permit No. PHY 43965,		
14	and ACHAMMAD DEZA ETMINANI	STIPULATED SETTLEMENT AND DISCIPLINARY ORDER	
15	MOHAMMAD REZA ETMINAN Original Pharmacist License No. RPH 41937,	DISCH EINART ORDER	
16	Respondents.		
17			
18	In the interest of a prompt and speeds	y settlement of this matter, consistent with the	
19	In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board of Pharmacy the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation with respect to Respondents Total Remedy and Prescription Center and Mohammad Reza Etminan only, Respondent James		
20			
21			
22			
23	Ying-Ming Gee having been previously dismissed from the Accusation by Complainant.		
24	PARTIES		
25	1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of		
26	Pharmacy. She brought this action solely in her official capacity and is represented in this matter		
27	by Bill Lockyer, Attorney General of the State of California, by Susan Melton Wilson, Deputy		
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2. On or about December 1, 1998, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 43965 to Everything Pharmacy Related Inc., to do business as Total Remedy and Prescription Center/Good Samaritan Medical Pharmacy (Respondent Total Remedy). Mohammad R. Etminan is the President and Barry Irvin is the Secretary since December 1, 1998. James Ying Ming Gee, RPH 44796 was the Pharmacist-in-Charge from September 11, 2000 through October 26, 2001. Mohammad R. Etminan, RPH 41937 is the Pharmacist-in-Charge since February 1, 2002. The Original Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on December 1, 2004, unless renewed.

- 3. On or about August 8, 1988, the Board of Pharmacy issued Original Pharmacist License Number RPH 41937 to Mohammad Reza Etminan (Respondent Etminan). The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2004, unless renewed.
- 4. Respondent Total Remedy and Prescription Center Pharmacy appears by and through the president and part owner of the corporate license holder Everything Pharmacy Related Inc, by Mohammad Reza and is advised and represented by Law Offices of Van Etten, Suzumoto & Beckett, by Herbert L. Weinberg. Individual Respondent Mohammad Reza Etminan is advised and represented by Law Offices of Van Etten, Suzumoto & Beckett, by Herbert L. Weinberg

JURISDICTION

4. Accusation No. 2570 was filed before the Board of Pharmacy (Board), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 21, 2004. Respondents timely filed their Notices of Defense contesting the Accusation. A copy of Accusation No. 2570 is attached as **Exhibit A** and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondents have carefully read, and understand the charges and

allegations in Accusation No. 2570. Respondents have also carefully read, and understand the effects of this Stipulated Settlement and Disciplinary Order.

- 6. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

- 8. Respondents agree that their licenses are subject to discipline and they agree to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.
- 9. Based upon all of the foregoing stipulations and recitals, it is stipulated and agreed that Complainant shall withdraw the Accusation in this matter against Respondents Total Remedy and Prescription Center and Mohamad Reza Etminan; and that a citation issued by the Board in connection with the events which are the subject of Accusation 2570 will be substituted, said citation charging these Respondents with violation of Business and Professions Code Section 4332, and assessing civil penalties as follows:

Total Remedy and Prescription Center - \$5,000.00 (Five thousand dollars) and Mohammad Reza Etminan - \$1,000.00 (One thousand dollars).

10. Respondents and each of them, agree not to appeal any Citation issued in accord with this Stipulated Settlement.

RESERVATION

11. Any admissions made by Respondents herein are only for the purposes of

23 | 24 |

this proceeding, or any other proceedings in which the Board of Pharmacy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

- Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 13. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the Accusation in this matter against
Respondents Total Remedy and Prescription Center and Mohammad Reza Etminan is hereby
withdrawn. It is hereby ordered that a CITATION for violation of Business and Professions Code
Section 4332 is to be issued against these Respondents, and each of them, assessing civil
penalties as follows:

Total Remedy and Prescription Center - \$5,000.00 (Five thousand dollars); Mohammad Reza Etminan - \$1,000.00 (One thousand dollars).

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ACCEPTANCE

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CENTER.

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RESPONDENT TOTAL REMEDY

I have carefully read and fully understand the Stipulated Settlement, Decision and Order set forth above. I have discussed the terms and conditions set forth in the Settlement, with my attorney, Herbert L. Weinberg. I understand that in signing this document, I am, as a responsible managing officer of the license holder, waiving all rights to a hearing on the charges set forth in the Accusation on file in this matter, a copy of which is attached as "Exhibit A" to this Stipulated Settlement.. I agree not to appeal any citation issued in accord with this Stipulated Settlement. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree the corporation will be bound by the Decision and Order of the Board of Pharmacy.

For Everything Pharmacy Related Inc. For TOTAL REMEDY AND PRESCRIPTION CENTER, Respondent

I concur in the Stipulated Settlement, Decision and Order as it pertains to my client, Everything Pharmacy Related, Inc., d.b.a. TOTAL REMEDY and PRESCRIPTION

Van Etten, Suzumoto &

Becker By: HERBERT L. WEINBERG Attomey for Respondent

RESPONDENT ETMINAN

I have carefully read and fully understand the Stipulated Settlement, Decision and Order set forth above. I have discussed the terms and conditions set forth in the Settlement with my attorney, Herbert L. Weinberg. I understand that in signing this document, I am waiving all

ACCEPTANCE

RESPONDENT TOTAL REMEDY

I have carefully read and fully understand the *Stipulated Settlement*, *Decision and Order* set forth above. I have discussed the terms and conditions set forth in the *Settlement*, with my attorney, Herbert L. Weinberg. I understand that in signing this document, I am, as a responsible managing officer of the license holder, waiving all rights to a hearing on the charges set forth in the Accusation on file in this matter, a copy of which is attached as "Exhibit A" to this Stipulated Settlement. I agree not to appeal any citation issued in accord with this Stipulated Settlement. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree the corporation will be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

MOHAMMAD R. ETMINAN

For Everything Pharmacy Related Inc.

For TOTAL REMEDY AND PRESCRIPTION

CENTER, Respondent

I concur in the *Stipulated Settlement, Decision and Order* as it pertains to my client, Everything Pharmacy Related, Inc., d.b.a. TOTAL REMEDY and PRESCRIPTION CENTER.

DATED: 10 75 04

Law Offices of Van Etten, Suzumoto &

Beckett

By: HERBERT L. WEINBERG Attorney for Respondent

RESPONDENT ETMINAN

I have carefully read and fully understand the *Stipulated Settlement, Decision and Order* set forth above. I have discussed the terms and conditions set forth in the *Settlement* with my attorney, Herbert L. Weinberg. I understand that in signing this document, I am waiving all

1	rights to a hearing on the charges set forth in the Accusation on file in this matter, a copy of		
2	which is attached as "Exhibit A" to this Stipulated Settlement I agree not to appeal any citatio		
3	issued in accord with this Stipulated Settlement. I enter into this Stipulated Settlement and		
4	Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the		
5	Decision and Order of the Board of Pharmacy.		
6			
7	DATED:		
8	MOHAMMAD R. ETMINAN, Respondent		
9	Leanny in the Stimulated Settlement, Decision and Order as it pertains to my		
10	I concur in the Stipulated Settlement, Decision and Order as it pertains to my		
11	client, Respondent Muhammad Reza Etminan.		
12			
13	DATED: 10/25/04 Law Offices of Van Etten, Suzumoto & Beckett		
14	By: HERBERT L. WEINBERG Attorney for Respondent		
15	Attorney 191 respondent		
16	ENDORSEMENT		
17	<u> ENDORGENILIVI</u>		
18	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully		
19	submitted for consideration by the Board of Pharmacy.		
20	DATED: 12-3-04.		
21	DATED		
22	BILL LOCKYER, Attorney General		
23	of the State of California		
24			
25	SUSANMELTON WILSON		
26	Deputy Attorney General Attorneys for Complainant		
27	DOJ Docket/Matter ID Number: 03583110-LA2002AD1647		
28	DOJ Docket/Matter ID Number: 03583110-LA2002AD1647 60061566.wpd		

MARKS

PAGE 07

	I rights to a hearing on the charges set forth in the Accusation on file in this matter, a copy of
;	which is attached as "Exhibit A" to this Stipulated Settlement I agree not to appeal any citation
:	issued in accord with this Stipulated Settlement. I enter into this Stipulated Settlement and
•	Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
	Decision and Order of the Board of Pharmacy.
ŧ	
7	
8	MOHAMMADIR. ETMINAN, Respondent
9	
10	
11	client, Respondent Muhammad Reza Etminan.
12	Han /
13	DATED: 10 25 04
14	Law Offices of Van Etten, Suzumoto & Beckett By: HERBERT L. WEINBERG
15	Attorney for Respondent
16	
17	ENDORSEMENT
18	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19	submitted for consideration by the Board of Pharmacy.
20	
21	DATED:
22	
23	BILL LOCKYER, Autorney General of the State of California
24	
25	
26	SUSAN MELTON WILSON Deputy Attorney General
27	Attorneys for Complainant
28	DOJ Docker/Marter ID Number: 03583110-1_A2602AD1647 60061566.wpd
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BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Again	nst: Case No. 2004-72
TOTAL REMEDY AND PRESCRIPTION CENTER a.k.a GOOD SAMARITAN MEDICAL PHARMACY Original Pharmacy Permit No. PHY	OAH Nos.: L-2002080834 and L-2002080835
and	
MOHAMMAD REZA ETMINAN Original Pharmacist License No. RPF	I 41937,
P	Respondents.
	•
<u>D1</u>	ECISION AND ORDER
The attached Stipulate	d Settlement and Disciplinary Order is hereby adopted by
the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.	
This Decision shall be	ecome effective on <u>February 10, 2005</u> .
It is so ORDERED	January 11, 2005
60061566	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
	By STANLEY W. GOLDENBERG Board President

1	BILL LOCKYER, Attorney General of the State of California		
2	SUSAN MELTON WILSON, State Bar No. 106092 Deputy Attorney General		
3	California Department of Justice 300 So. Spring Street, Suite 1702		
4	Los Angeles, CA 90013 Telephone: (213) 897-4942		
5	Facsimile: (213) 897-2804		
6	Attorneys for Complainant		
7			
8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against:	Case No. 2570	
12	TOTAL REMEDY AND PRESCRIPTION CENTER	ACCUSATION	
13	a.k.a. GOOD SAMARITAN MEDICAL PHARMACY		
14	1245 Wilshire Boulevard Los Angeles, CA 90017		
15	Original Pharmacy Permit No. PHY 43965,		
16	and		
17	MOHAMMAD REZA ETMINAN		
18	12335 Santa Monica Blvd., #306 Los Angeles, CA 90025		
19	Original Pharmacist License No. RPH 41937,		
20	and		
21	JAMES YING-MING GEE		
22	3901 Parkview Lane, #6A Irvine, CA 92612		
23	Original Pharmacist License No. RPH 44796,		
24	Respondents.		
25			
26	Complainant alleges:		
27	<u>PARTIE</u>	<u>ES</u>	
28	1. Patricia F. Harris (Complaina	nt) brings this Accusation solely in her	

- 2. On or about December 1, 1998, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 43965 to Everything Pharmacy Related Inc., to do business as Total Remedy and Prescription Center/Good Samaritan Medical Pharmacy (Respondent Total Remedy). Mohammad R. Etminan is the President and Barry Irvin is the Secretary since December 1, 1998. James Ying Ming Gee, RPH 44796 was the Pharmacist-in-Charge from September 11, 2000 through October 26, 2001. Mohammad R. Etminan, RPH 41937 is the Pharmacist-in-Charge since February 1, 2002. The Original Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on December 1, 2004, unless renewed.
 - 3. On or about August 8, 1988, the Board of Pharmacy issued Original Pharmacist License Number RPH 41937 to Mohammad Reza Etminan (Respondent Etminan). The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2004, unless renewed.
 - 4. On or about August 26, 1991, the Board of Pharmacy issued Original Pharmacist License Number RPH 44796 to James Ying-Ming Gee (Respondent Gee). The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2005, unless renewed.

JURISDICTION

- 5. This Accusation is brought before the Board of Pharmacy (Board) under the authority of the below mentioned statutes and regulations.¹
- 6. Section 4300 of the Code permits the Board to take disciplinary action to suspend or revoke a license issued by the Board.
 - 7. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of

1. All statutory references are to the Business and Professions Code (Code) unless otherwise indicated.

unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

- "(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.
- "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.
 - "(p) Actions or conduct that would have warranted denial of a license.
 - 8. Section 4081 of the Code states:
- "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.
- "(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or exemptee, for maintaining the records and inventory described in this section.
- "(c) The pharmacist-in-charge or exemptee shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge or exemptee had no knowledge, or in which he or she did not knowingly participate."

- 9. Title 16, California Code of Regulations, section 1716 states, in pertinent part, that pharmacists shall not deviate from the requirements of a prescription except upon the prior consent of the prescriber or to select the drug product in accordance with section 4047.6 of the Business and Professions Code.
 - 10. California Code of Regulations, title 16, section 1718, states:

"Current Inventory" as used in Section 4232 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Section 4232.

"The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory."

- 11. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

13. DANGEROUS DRUG

a. "Serostim" a brand name for somatropin, a growth hormone, is categorized as a dangerous drug pursuant to section 4022 of the Code.

FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Complete and Accurate Records)

14. Respondents Total Remedy, Etminan and Gee are subject to disciplinary action under sections 4300 and 4301(j), (o) and (p) of the Code on the grounds of unprofessional conduct for violating section 4081 of the Code in conjunction with Title 16, California Code of Regulations, section 1718, in that they failed to maintain a complete and accurate record for all dangerous drugs received, sold, or otherwise disposed of by them. The circumstances are as follows:

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a. An audit performed by an inspector for the Board of all Serostim acquisitions from the wholesalers as well as the disposition information from hard copy prescriptions and audit log obtained from Respondents for the period February 1, 2001 through February 28, 2002 revealed that purchases made by Respondents of Serostim outnumbered the amount of Serostim dispensed by prescriptions, as follows:

	AMOUNT	AMOUNT	ON HAND	SHORTAGE
STRENGTH	PURCHASED	DISPENSED	AS OF 3/4/02	AS 3/4/02
4mg (vials)	364	378	0	+ 14
5mg (vials)	3,724	3,486	28	210 (-6%)
6mg (vials)	20,923	18,941	168	1,814 (- 9%)

Assuming a minimum price of \$1,470.16 for seven (7) vials, the money value of the unaccounted for drug stock exceeds \$425,000.00

b. On or about March 4, 2002, during an inspection of Respondent Total Remedy's premises, the inspector for the Board requested that Respondent Etminan, Pharmacist-in-Charge, provide him with records of dispositions for the drug, Serostim. Respondent Etminan was unable to do so.

SECOND CAUSE FOR DISCIPLINE

(Variation From Prescription)

- 15. Respondents Total Remedy, Etminan and Gee and Prescription Center is subject to disciplinary action under sections 4300 and 4301(j) and (o) on the grounds of unprofessional conduct for violating California Code of Regulations, title 16, section 1716.

 The circumstances are as follows:
- a. Serostim prescription number 6468993 for patient Ronald H. authorized only three refills. However, the prescription was refilled five times.
- b. Serostim prescription number 6479535 for patient Chas. L. was written for three refills but entered in pharmacy records as two refills.
- c. Serostim prescription number 5488659 for Carol. S. was written for four vials, however, pharmacy records indicate 28 vials were dispensed.

1	d. Serostim prescription number 6490560 for Kay L. showed the wrong	
2	prescriber name for the prescription.	
3	PRAYER	
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein	
5	alleged, and that following the hearing, the Board of Pharmacy issue a decision:	
6	A. Revoking or suspending Original Pharmacy Permit Number PHY 43965,	
7	issued to Total Remedy and Prescription Center, a.k.a. Good Samaritan Medical Pharmacy;	
8	B. Revoking or suspending Original Pharmacist License Number RPH	
9	41937, issued to Mohammad Reza Etminan;	
10	C. Revoking or suspending Original Pharmacist License Number RPH	
11	44796, issued to James Ying-Ming Gee;	
12	D. Ordering Total Remedy and Prescription Center, Mohammad Reza	
13	Etminan and James Ying-Ming Gee to pay the Board of Pharmacy the reasonable costs of the	
14	investigation and enforcement of this case, pursuant to Business and Professions Code section	
15	125.3;	
16	E. Taking such other and further action as deemed necessary and proper.	
17	DATED: 1/12/04	
18		
19	PATRICIA F. HARRIS	
20	Executive Officer Board of Pharmacy	
21	State of California	
22	Complainant	
23	03583110-LA2002AD1647	
24	CML (10/07/2002) 60018346.wpd	
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27	ę	

1 BILL LOCKYER, Attorney General of the State of California SUSAN MELTÓN WILSON, State Bar No. 106092 2 Deputy Attorney General 3 California Department of Justice 300 So. Spring Street, Suite 1702 4 Los Angeles, CA 90013 Telephone: (213) 897-4942 5 Facsimile: (213) 897-2804 6 Attorneys for Complainant 7 BEFORE THE **BOARD OF PHARMACY** STATE OF CALIFORNIA 8 9 Case No. 2570 In the Matter of the Accusation Against: OAH No. 10 TOTAL REMEDY AND L-2002080834, L-2002080835 11 PRESCRIPTION CENTER a.k.a GOOD SAMARITAN 12 MEDICAL PHARMACY Original Pharmacy Permit No. PHY 43965, 13 and STIPULATED SETTLEMENT AND 14 **DISCIPLINARY ORDER** MOHAMMAD REZA ETMINAN 15 Original Pharmacist License No. RPH 41937, 16 Respondents. 17 18 In the interest of a prompt and speedy settlement of this matter, consistent with the 19 public interest and the responsibility of the Board of Pharmacy the parties hereby agree to the 20 following Stipulated Settlement and Disciplinary Order which will be submitted to the Board for 21 approval and adoption as the final disposition of the Accusation with respect to Respondents 22 Total Remedy and Prescription Center and Mohammad Reza Etminan only, Respondent James 23 Ying-Ming Gee having been previously dismissed from the Accusation by Complainant. 24 **PARTIES** 25 Patricia F. Harris (Complainant) is the Executive Officer of the Board of 1. 26 Pharmacy. She brought this action solely in her official capacity and is represented in this matter 27 by Bill Lockyer, Attorney General of the State of California, by Susan Melton Wilson, Deputy

28

2. On or about December 1, 1998, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 43965 to Everything Pharmacy Related Inc., to do business as Total Remedy and Prescription Center/Good Samaritan Medical Pharmacy (Respondent Total Remedy). Mohammad R. Etminan is the President and Barry Irvin is the Secretary since December 1, 1998. James Ying Ming Gee, RPH 44796 was the Pharmacist-in-Charge from September 11, 2000 through October 26, 2001. Mohammad R. Etminan, RPH 41937 is the Pharmacist-in-Charge since February 1, 2002. The Original Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on December 1, 2004, unless renewed.

- 3. On or about August 8, 1988, the Board of Pharmacy issued Original Pharmacist License Number RPH 41937 to Mohammad Reza Etminan (Respondent Etminan). The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2004, unless renewed.
- 4. Respondent Total Remedy and Prescription Center Pharmacy appears by and through the president and part owner of the corporate license holder Everything Pharmacy Related Inc, by Mohammad Reza and is advised and represented by Law Offices of Van Etten, Suzumoto & Beckett, by Herbert L. Weinberg. Individual Respondent Mohammad Reza Etminan is advised and represented by Law Offices of Van Etten, Suzumoto & Beckett, by Herbert L. Weinberg

JURISDICTION

4. Accusation No. 2570 was filed before the Board of Pharmacy (Board), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 21, 2004. Respondents timely filed their Notices of Defense contesting the Accusation. A copy of Accusation No. 2570 is attached as **Exhibit A** and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondents have carefully read, and understand the charges and

allegations in Accusation No. 2570. Respondents have also carefully read, and understand the effects of this Stipulated Settlement and Disciplinary Order.

- 6. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

CULPABILITY

- 8. Respondents agree that their licenses are subject to discipline and they agree to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.
- 9. Based upon all of the foregoing stipulations and recitals, it is stipulated and agreed that Complainant shall withdraw the Accusation in this matter against Respondents Total Remedy and Prescription Center and Mohamad Reza Etminan; and that a citation issued by the Board in connection with the events which are the subject of Accusation 2570 will be substituted, said citation charging these Respondents with violation of Business and Professions Code Section 4332, and assessing civil penalties as follows:

Total Remedy and Prescription Center - \$5,000.00 (Five thousand dollars) and Mohammad Reza Etminan - \$1,000.00 (One thousand dollars).

10. Respondents and each of them, agree not to appeal any Citation issued in accord with this Stipulated Settlement.

RESERVATION

11. Any admissions made by Respondents herein are only for the purposes of

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27 28 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

- This stipulation shall be subject to approval by the Board of Pharmacy. 12. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- The parties understand and agree that facsimile copies of this Stipulated 13. Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- In consideration of the foregoing admissions and stipulations, the parties 14 agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the Accusation in this matter against Respondents Total Remedy and Prescription Center and Mohammad Reza Etminan is hereby withdrawn. It is hereby ordered that a CITATION for violation of Business and Professions Code Section 4332 is to be issued against these Respondents, and each of them, assessing civil penalties as follows:

> Total Remedy and Prescription Center - \$5,000.00 (Five thousand dollars); Mohammad Reza Etminan - \$1,000.00 (One thousand dollars).

ACCEPTANCE

RESPONDENT TOTAL REMEDY

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of the Board of Pharmacy.

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CENTER.

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I have carefully read and fully understand the Stipulated Settlement, Decision and Order set forth above. I have discussed the terms and conditions set forth in the Settlement, with my attorney, Herbert L. Weinberg. I understand that in signing this document, I am, as a responsible managing officer of the license holder, waiving all rights to a hearing on the charges set forth in the Accusation on file in this matter, a copy of which is attached as "Exhibit A" to this Stipulated Settlement.. I agree not to appeal any citation issued in accord with this Stipulated Settlement. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree the corporation will be bound by the Decision and Order

For Everything Pharmacy Related Inc.

TOTAL REMEDY AND PRESCRIPTION

CENTER, Respondent

I concur in the Stipulated Settlement, Decision and Order as it pertains to my

client, Everything Pharmacy Related, Inc., d.b.a. TOTAL REMEDY and PRESCRIPTION

Law Offices an Etten, Suzumoto &

By: HERBERT L. WEINBERG Attomey for Respondent

RESPONDENT ETMINAN

I have carefully read and fully understand the Stipulated Settlement, Decision and Order set forth above. I have discussed the terms and conditions set forth in the Settlement with my attorney, Herbert L. Weinberg. I understand that in signing this document, I am waiving all

ACCEPTANCE

RESPONDENT TOTAL REMEDY

I have carefully read and fully understand the *Stipulated Settlement, Decision and Order* set forth above. I have discussed the terms and conditions set forth in the *Settlement*, with my attorney, Herbert L. Weinberg. I understand that in signing this document, I am, as a responsible managing officer of the license holder, waiving all rights to a hearing on the charges set forth in the Accusation on file in this matter, a copy of which is attached as "Exhibit A" to this Stipulated Settlement. I agree not to appeal any citation issued in accord with this Stipulated Settlement. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree the corporation will be bound by the Decision and Order of the Board of Pharmacy.

13 DATED:

MOHAMMAD R. ETMINAN

For Everything Pharmacy Related Inc.

For TOTAL REMEDY AND PRESCRIPTION

CENTER, Respondent

I concur in the *Stipulated Settlement, Decision and Order* as it pertains to my client, Everything Pharmacy Related, Inc., d.b.a. TOTAL REMEDY and PRESCRIPTION CENTER.

20 DATED: 10 7,5 0 4

Law Offices of Van Etten, Suzumoto &

Beckett

By: HERBERT L. WEINBERG Attorney for Respondent

RESPONDENT ETMINAN

I have carefully read and fully understand the *Stipulated Settlement*, *Decision and Order* set forth above. I have discussed the terms and conditions set forth in the *Settlement* with my attorney, Herbert L. Weinberg. I understand that in signing this document, I am waiving all

1	rights to a hearing on the charges set forth in the Accusation on file in this matter, a copy of		
2	which is attached as "Exhibit A" to this Stipulated Settlement I agree not to appeal any citatio		
3	issued in accord with this Stipulated Settlement. I enter into this Stipulated Settlement and		
4	Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the		
5	Decision and Order of the Board of Pharmacy.		
6			
7	DATED:		
8	MOHAMMAD R. ETMINAN, Respondent		
9 10	I concur in the Stipulated Settlement, Decision and Order as it pertains to my		
11	client, Respondent Muhammad Reza Etminan.		
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13	DATED: 10/25/00 Law Offices of Van Etten, Suzumoto & Beckett		
14	By: HERBERT L. WEINBERG Attorney for Respondent		
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16 17	ENDORSEMENT		
18	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully		
19	submitted for consideration by the Board of Pharmacy.		
20	DATED: 12-3-04.		
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2223	BILL LOCKYER, Attorney General of the State of California		
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26	SUSAMMELTON WILSON Deputy Attorney General Attorneys for Complainant		
27 28	DOJ Docket/Matter ID Number: 03583110-LA2002AD1647		
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